

RESOLUTION NO. 2020-01

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING AN AGREEMENT WITH THE STATE OF FLORIDA, OFFICE OF THE STATE ATTORNEY FOR THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA TO REIMBURSE THE STATE FOR THE COST OF THE STATE ATTORNEY PROSECUTION OF CERTAIN CRIMINAL VIOLATIONS OF THE VILLAGE CODE OF ORDINANCES; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne (“Village”) Council finds that it is necessary to enforce and prosecute violations of the Village Code of Ordinances (“Code”) in order to maintain and improve the health, safety, and welfare of the Village community; and

WHEREAS, Section 27.02, Florida Statutes, authorizes the State Attorney to prosecute violations of municipal ordinances that are punishable by incarceration if the prosecution is ancillary to a State prosecution or if the State Attorney has contracted with the municipality for reimbursement; and

WHEREAS, the Village Council desires to enter into an agreement with the State of Florida, Office of the State Attorney for the Eleventh Judicial Circuit of Florida (the “State Attorney”) for the purpose of reimbursing the State Attorney for the cost of the State Attorney prosecuting certain criminal violations of the Village Code, as set forth in Exhibit “A” attached hereto (the “Agreement”); and

WHEREAS, the Village Council finds that this Resolution will promote the health, safety, welfare of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. Approval. That the Agreement attached hereto as Exhibit "A" is approved in substantially the form provided.

Section 3. Authorization. That the Village Manager is hereby authorized to execute the Agreement and any renewals thereof, subject to approval by the Village Attorney as to form, content, and legal sufficiency, and to take any and all action necessary to implement the purpose of this Resolution.

Section 4. Effective Date. That this Resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this 28th day of January, 2020.

ATTEST:


JENNIFER MEDINA, CMC
VILLAGE CLERK




MICHAEL W. DAVEY, MAYOR

APPROVED AS TO FORM AND LEGAL SUFFICIENCY


WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
VILLAGE ATTORNEY

EXHIBIT "A"

**AGREEMENT BETWEEN THE VILLAGE OF KEY BISCAYNE AND THE STATE OF
FLORIDA, OFFICE OF THE STATE ATTORNEY FOR THE ELEVENTH JUDICIAL
CIRCUIT OF FLORIDA TO REIMBURSE THE STATE FOR THE COST OF STATE
ATTORNEY PROSECUTION OF CERTAIN CRIMINAL VIOLATIONS OF THE
VILLAGE OF KEY BISCAYNE CODE OF ORDINANCES**

**AGREEMENT BETWEEN THE VILLAGE OF KEY
BISCAYNE AND THE STATE OF FLORIDA, OFFICE OF
THE STATE ATTORNEY FOR THE ELEVENTH
JUDICIAL CIRCUIT OF FLORIDA TO REIMBURSE THE
STATE FOR THE COST OF STATE ATTORNEY
PROSECUTION OF CERTAIN CRIMINAL VIOLATIONS
OF THE VILLAGE OF KEY BISCAYNE CODE OF
ORDINANCES**

This agreement ("Agreement") is entered into this 29 day of May, 2020,
by and between the Village of Key Biscayne, a municipal corporation of the State of Florida
(hereinafter referred to as the "Village") and the Office of the State Attorney for the Eleventh
Judicial Circuit of Florida (hereinafter referred to as "State Attorney").

WHEREAS, the Village finds that in order to maintain and improve the health, safety,
and welfare of this community, it is necessary to adequately enforce and prosecute violations of
the Village's Code of Ordinances ("Municipal Code"); and

WHEREAS, Section 27.02, Florida Statutes, authorizes the State Attorney to prosecute
municipal ordinance violations punishable by incarceration if ancillary to state prosecution or, if
not ancillary to state prosecution, when the State Attorney contracts with the Village for
reimbursement.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I
Services

The State Attorney agrees to prosecute Municipal Code violations as authorized in
Sections 27.02, and 27.34, Florida Statutes. The Village agrees to remit, subject to the terms
outlined in Article III of this Agreement, to the State Attorney the required funds to reimburse
for costs associated with the prosecution of violations of the Municipal Code for the period of
October 1, 2018 through September 30, 2021. The State Attorney shall provide such clerical and

professional personnel as may be required for the performance of any of the functions of the State Attorney as set forth in this Agreement. This Agreement does not commit the Village to pay for the prosecution of Municipal Code violations ancillary to state prosecution or for the prosecution of municipal ordinance violations not punishable by incarceration. This Agreement specifically does not authorize the State to handle appeals of municipal ordinances on constitutional grounds, which shall remain the responsibility of the Village as the municipality that passed the ordinance.

ARTICLE II

Term; Amendment

This Agreement shall expire on September 30, 2021, unless terminated earlier pursuant to Article VII of this Agreement. Under no circumstances shall the Village be liable to continue or extend this Agreement beyond this date. The Village may extend the term of this Agreement for up to five (5) one (1) year periods by written notification to the State Attorney.

This Agreement may only be amended in writing, through a document executed by duly authorized representatives of the signatories to this Agreement.

ARTICLE III

Payment Schedule

The Village agrees to reimburse the State Attorney on an hourly basis for services rendered at a rate of Fifty dollars (\$50) per hour. On a quarterly basis, the State Attorney shall provide the Village with an invoice including, but not limited to, the hours of services rendered, number of cases prosecuted as set forth in this Agreement, and the total amount due for payment

for the previous month. The Village shall remit each payment within ten (10) days after receiving said invoice from the State Attorney.

ARTICLE IV **Responsibilities**

The Village does not delegate any of its responsibilities or powers to the State Attorney other than those enumerated in this Agreement. The State Attorney does not delegate any of its responsibilities or powers to the Village other than those enumerated in this Agreement.

ARTICLE V **Reporting**

All required reports shall be submitted to the Village of Key Biscayne, Attn: Andrea Agha, Village Manager, 88 West McIntyre Street, Key Biscayne, Florida 33149, with a copy via email to aagha@keybiscayne.fl.gov.

ARTICLE VI **Indemnification**

It is expressly understood and intended that the State Attorney is only a recipient of the reimbursements paid by the Village and is not an agent of the Village. The respective parties agree, subject to the provisions of Chapter 768.28 (19), Florida Statutes, that they will hold each other harmless from any claims arising from this Agreement.

ARTICLE VII **Termination; Notice**

Either party may terminate this agreement at any time with or without cause by furnishing written notice to the other party with no less than ninety (90) days notice.

Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the Village: Andrea Agha
 Village Manager
 Village of Key Biscayne
 88 West McIntyre Street
 Key Biscayne, FL 33149

With a copy to: Chad Friedman, Esq.
 Village Attorney
 Weiss Serota Helfman Cole & Bierman, P.L.
 2525 Ponce de Leon Blvd., Suite 700
 Coral Gables, FL 33134

For the State Attorney: State Attorneys Office, 11th Circuit
 Office of the State Attorney
 c/o Don L. Horn
 Chief Assistant State Attorney for Administration
 1350 NW 12 Avenue
 Miami, FL 33136-2102

ARTICLE VIII **Service Charges**

This Agreement is contingent upon all Village funding provided, and any interest earned thereon, not being subject to any State service charges or administrative assessments.

ARTICLE IX **Non-Discrimination**

The State Attorney agrees to abide and be governed by Title II of the Americans with Disabilities Act of 1990, Title VI and VII, Civil Rights Act of 1964 (42 USC 200d, e) and Title VIII of the Civil Rights Act of 1968, as amended, which provides in part that there will not be discrimination of race, color, sex, religious background, ancestry, or national origin in

performance of this contract, in regard to persons served, or in regard to employees or applicants for employment and it is expressly understood that upon receipt of evidence of discrimination, the Village shall have the right to terminate this Agreement.

IN WITNESS THEREOF, the parties have caused this Agreement to be executed by their respective and duly authorized officers the day and year first above written.

ATTEST:

THE VILLAGE OF KEY BISCAYNE:

for By: *Jennifer Medina*
Jennifer Medina, CMC, Village Clerk

By: *AMA*
Andrea Agha, Village Manager



ATTEST

STATE ATTORNEY'S OFFICE
ELEVENTH JUDICIAL CIRCUIT

By: *Carol J. Jume*

By: *Don L. Horn*
Don L. Horn
Chief Assistant State Attorney for
Administration